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## Campaign 'Reform' & the Average Joe

### Who Benefits From Free Speech?

In recent years, most Republicans in Congress have voted for free speech and the First Amendment and against what is often called campaign finance 'reform'. This was true again this year when the great majority of Republicans stopped the McCain-Feingold bill (S. 25 / S. 1663) in the Senate and the great majority of Republicans voted against the Shays-Meehan bill (H.R. 2183) in the House. Now, the McCain-Feingold bill is back on the floor of the Senate.

Some observers think that opposing campaign finance 'reform' is a little like opposing apple pie. Contrary to that view, however, there are very good reasons for opposing this false 'reform' — and the most important is that the purported "reform" is going to hurt the average American voter.

Voters need information, and getting information to voters costs money, sometimes a lot of money. If parties and candidates can't raise and spend sufficient amounts of money, America's voters are going to be the losers. This same loss will *not* be felt by political insiders and the media elite, however. Lobbyists and broadcasters and editorial writers and assorted insiders are not going to be disadvantaged by this so-called campaign finance 'reform'. If you work inside the Washington Beltway you probably can live with this brand of campaign finance 'reform', but if you're an Average Joe or an Average Jane — watch out!

Republicans who oppose campaign finance 'reform' know that it takes substantial sums to communicate effectively with millions of American voters. Political campaigns require money for television, radio, and newspaper ads; for pamphlets and position papers and bumper stickers; and for research and postage and even sound trucks. Political campaigns are battles of ideas and, like all battles, they are expensive to wage effectively. In a democratic republic, however, it is unthinkable that we could govern ourselves in any other way. Fortunately, these facts are recognized by the Supreme Court of the United States which has upheld the primacy of political speech *and* the inextricably related right of raising and spending money so as to be able to make that political speech. In the leading case, *Buckley v. Valeo* (1976), the Court said:

"A restriction on the amount of money a person or group can spend on political communication during a campaign necessarily reduces the quantity of expression by restricting the number of issues discussed, the depth of their exploration, and the size of the audience reached. This is because virtually every means of communicating ideas in today's mass society requires the

expenditure of money. The distribution of the humblest handbill or leaflet entails printing, paper, and circulation costs. Speeches and rallies generally necessitate hiring a hall and publicizing the event. The electorate's increasing dependence on television, radio, and other mass media for news and information has made these expensive modes of communication indispensable instruments of effective political speech."

Republicans who oppose campaign finance 'reform' understand that the First Amendment is not just for newspapers and broadcasters. This constitutional fact is ignored by this campaign finance 'reform' bill which lays numerous burdens on private speakers but exempts the institutional media. The First Amendment itself does not make such a distinction, and the Supreme Court has, fortunately, been most resistant to the idea that the First Amendment leaves out the "little guy." In 1985 Justice William Brennan wrote,

"In light of the increasingly prominent role of mass media in our society, and the awesome power it has placed in the hands of a select few, protection for the speech of nonmedia defendants is essential to ensure a diversity of perspectives. Uninhibited, robust and wide-open debate among nonmedia speakers is as essential to the fostering and development of an individual's political thought as is such debate in the mass media."

In the same case, Justice Byron White wrote,

"The informative function asserted by representatives of the organized press to justify greater privileges under the First Amendment [is] also performed by lecturers, political pollsters, novelists, academic researchers, and dramatists. . . . [T]he organized press has a monopoly neither on the First Amendment nor on the ability to enlighten."

Also, Republican opponents of campaign finance 'reform' refuse to concede the battlefield of ideas to Democrats and liberals — and it takes money to make the case for Republican and conservative ideas. If there is insufficient money, there can be no genuine battle; Democrats and liberals simply walk away with the victory because of their greater presence and influence in the institutional media. Michael Barone, columnist and political commentator, put it this way:

"Before October, political dialogue tends to be dominated by the 'free media,' newspapers and television stations, about 90 percent of whose reporters, editors, and producers are Democrats. . . . But in October, the 'paid media' take over — television advertisements, radio spots and direct mail. Both parties start to get their messages out unmediated by the press, and the Republicans begin to do better. . . ."

It takes money to communicate with millions of voters. If that money is choked off, the average voter is going to hear from fewer and fewer voices, and the remaining voices are going to be predominantly liberal and Democratic. That is one reason why so many Republicans oppose campaign finance 'reform'. Republicans are siding with the Average Joe and the Average Jane.

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Sources: *Buckley v. Valeo*, 424 U.S. 1, 19 (1976) (per curiam) (footnote omitted). *Dun & Bradstreet v. Greenmoss Builders*, 472 U.S. 749, 773 n. 4 (1985) (White, J., concurring); 783-84 n. 9 (Brennan, J., dissenting) (quotations have been edited lightly). M. Barone, "Our Country, Right or Centrist," *The Weekly Standard*, Nov. 17, 1997, p. 23.